

REMARKS-General

1. The claims 1 to 63 are amended to include further limitations previously brought forth in the disclosure. No new matter has been included. All claims 1 to 63 as amended are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

Response to Claim Objection under 37 CFR 1.126

2. The applicant submits that the newly drafted claim 25 is added between the claims 24 and 26, as pursuant to 37CFR1.126.

Response to Rejection of Claims 1 to 63 under 35USC103

3. The Examiner rejected claims 1-7, 10, 16, 18, 20, 21, 22, 24, 26, 28, 29, 31, 32, 37-48, and 51-55 over Tognazzini (US5,907,293) in view of Tognazzini (US5,872,526). The Examiner rejected claims 8, 9, 11, 17, 19, 23, 30, 33, and 56-63 over Tognazzini (US5,907,293) in view of Tognazzini (US5,872,526), and further in view of Lemelson et al (US5,963,161). The Examiner also rejected claims 12-15, 49, and 50 over Tognazzini (US5,907,293) in view of Tognazzini (US5,872,526), and further in view of Kain et al (US5,872,526). The Examiner rejected claims 49 and 50 over Tognazzini (US5,907,293) in view of Tognazzini (US5,872,526) and Raith (US6,385,461).

4. Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

5. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and the '293 patent which is qualified as prior art of the instant invention under 35USC102(b) must be obvious in view of at least the 526 patent at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains in order to render the claims 1 to 63 to violate the 35USC103(a).

6. However, the '293 patent fails to suggest a transmission of location to the wireless internet server provider through public wireless internet so that every vehicle can have the location of the other vehicle and a client identification of the client units and a host identification of the host unit. In addition, the '526 patent, the '161 patent and the '461 patent also fail to suggest the use of public wireless internet for data sending and receiving that does not need to configure to transmitter and receiver, as claimed in claims 1 to 63 of the instant invention.

7. The applicant respectfully submits that this is clearly **not** a proper basis for combining references in making out an obviousness rejection of the present claims. Rather, the invention must be considered as a whole and there must be something in the reference that suggests the combination or the modification. See *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick*, 221 U.S.P.Q. 481, 488 (Fed. Cir. 1984) ("The claimed invention must be considered as a whole, and the question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness, of making the combination"), *In re Gordon*, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984), ("The mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.") *In re Laskowski*, 10 U.S.P.Q.2d 1397, 1398 (Fed. Cir. 1989), ("Although the Commissioner suggests that [the structure in the primary prior art reference] could

readily be modified to form the [claimed] structure, “[t]he mere fact that the prior art could be modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.”)

8. In the present case, there is no such suggestion. The ‘293 patent uses proximity radar to determine the location of the other vehicle. The instant invention does not directly determine the location of the other vehicle through the radar device. The instant invention sends vehicle locations to the wireless internet server provider so every vehicle can have the location of the other vehicles. The radar device can not function as a host unit in the instant invention because the function of the host unit must provide your own location to the communication network. The radar device can never determine the location of your own vehicle, i.e. the host vehicle of the instant invention.

9. In any case, even combining the ‘293 patent, the ‘526 patent, the ‘161 patent and the ‘461 patent would not provide the invention as claimed -- a clear indicia of nonobviousness. *Ex parte Schwartz*, slip op. p.5 (BPA&I Appeal No. 92-2629 October 28, 1992), (“Even if we were to agree with the examiner that it would have been obvious to combine the reference teachings in the manner proposed, the resulting package still would not comprise zipper closure material that terminates short of the end of the one edge of the product containing area, as now claimed.”). That is, modifying the ‘293 patent with the ‘526 patent as well as the ‘161 patent or the ‘461 patent, as proposed by the Examiner, would not provide the following distinctive features of the instant invention:

(i) No unit resides at a stationary radar site in the instant invention. All of the units are real time movable and send their positions out through wireless internet provider. Where the ‘293 patent put one apparatus at a stationary radar site.

(ii) The instant invention uses public wireless internet for the data sending and receiving and does not need to configure to transmitter and receiver. Where the ‘293 patent uses transceiver and needs to configure to transmitter and receiver.

(iii) In the instant invention, although the storage of the handheld device is small, the map database can be retrieved from the internet server or handheld device. The ‘293 and ‘526 patents use transceiver and can only retrieve map from the handheld device.

(iv) The host position display directly from the core micro palm navigator in the instant invention while the host position of the '293 patent is from transceiver.

(v) The instant invention displays the absolute position on the map while the '293 patent calculates the distances of the vehicles and display the relative position of the vehicle.

(vi) The instant invention gets the client position from internet wireless communication while the '293 patent uses proximity radar device to get the azimuth and distance of the detect vehicle.

(vii) The instant invention uses internet wireless communication while the '293 patent uses transceiver and needs to configure it as sender and receiver and sends voice by cellular telephone transceiver or radio transceiver.

(viii) The instant invention uses absolute position display while the '293 and '536 patents use ECEF position that is relative position display to calculate the distances between units.

(xi) The instant invention uses latitude, longitude and altitude for the absolute position while the '293 patent uses them for the range calculation.

(x) In the instant invention, the group is for security while the group in the '526 patent is for better communication.

10. Applicant believes that neither the '293 patent, the '526 patent, the '161 patent, nor the '461 patent separately or in combination, suggest or make any mention whatsoever of the instant invention as claimed in claims 1 to 63.

The Cited but Non-Applied References

11. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

12. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the objection and rejection are requested. Allowance of claims 1 to 63 at an early date is solicited.

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Respectfully submitted, OCT 01 2004
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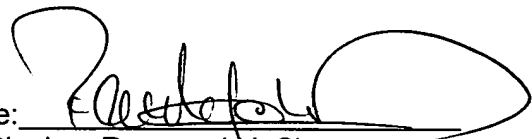


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